1943

File No. Explosives II/43

Legal Department

B BRANCH

Subject

Rules and Notifications under the Indian Explosives Act, 1884

(P) 16/E)

File No. Explosives II/43

Gen. 194 e.

143 B

Office of the R.L.A.

Revised draft Consent Orders are sent herewith.

Sd/P.N.M.

Remembrancer of Legal Affairs.

U.R. to H.D. (Spl). No.982,dated the 9th February 1943.

EKN.14/7/

Below reference No. P.O.L dated the 16th January 1943 from the District Magistrate, Surat, forwarding D.S.P., Surat Report contained in his letter to District Magistrate Surat, No. c/247 dated 12/13th January 1943.

O R D E R.

Home Department.
Bombay Castle, February 1943.

No. S.D. VI/- In exercise of the function of the Central Government under section 7 of the Explosive Substances Act, 1908 (VI of 1908), entrusted to the Government of Bombay by the Government of India, Home Department Notification No. 51/12/36-Political dated the 29th March 1938, the Government of Bombay is hereby pleased to consent to the trial of the persons specified in the margin for offence punishable under sections, 3,4,5 and 6 of the said Act.

Explosive Substances Act. 1908.

1. Mohanlal Maganla Badami.
2. Dhirajalal Nathubhai Soni.
3. Krishnalal Ratanlal Kapadia
4. Jagjiwan Ambaram Lubar.
5. Harubhai Kassanji Jariwala
6. Ganda Kharwa alias Bhagawandas Devchand Tikiwala.
7. Kikubhai Jagannath Pathak.
8. Bawabhai Sukhabhai Patel.
9. Navichandra Ichchhashankar Shukla.
10. Thakur Ramji Luhar.
11. Manchharam Ghelabhai Bhan
12. Jagmohan Kuberdas.
13. Babu alias Narottam Nagin Luhar
14. Bankulal Chhaganlal Patel
15. Narisingdas Karsandas Patel.
16. Dayabhai Ambaram Ganchi.
17. Bachubhai Maganlal Desai.
18. Hiralal Parbhudas Jariwala.

By order of the Governor of Bombay.

Additional Secretary to the Govt. of Bombay, Home Department.

Below reference No. P.O.L dated the 16th January 1943 forwarding D.S.P-., Surat's report contained in his letter to District Magistrate, Surat No. C/ dated the 12th January 1943.

ORDER.
Home Department.

Bombay Castle, February 1943.

No. S.D. VI exercise of the function of the Central Government under section 7 of the Explosiv Substances Act, 1908 (VI of 1908) entrusted to th Government of Bombay by the Government of India, Home Department Notification No. 51/12/36-Political, dated the 29th March 1938, the Government of Bombay ishereby pleased to consent to the trail of Raghunathji Haribhai Naik for offences punishable under clause (b) of section 4 and section 5 of the said Act.

By order of the Governor of Bombay

Additional Secretary to the Government, of Bombay
Home Department.

EKN.13/7/

Office of tne R.L.A.

A revised draft consent Order is sent herewith

Sd/P.N.M.

Remembrancer of Legal Affairs.

U.R. to H.D. (Spl) No.983 dated the 9th Februmyy 1943.

EKN13/7/

Below reference No. 113/Cr.Br.(Pol.), dated 21st January 1943, from the Commissioner of Police, Bombay.

O R D E R

Home Department.

Bombay Castle, 1943.

Explosive Substances Act, 1908.

Ananda Mukanda Sable.
2. Laximan Sakaram Mandra,
3. Mahadev Balaji Kale,
4. Jijaba Krishna pawar,
5. Tukaram Genu Nikam,
6. Haji Zaver Gillant, and
7. Mrs. Kaveribai Dalukhraj Devechia.

No. S.D.VI/- In exercise of the function of the Central Government under section 7 of the Explosive Substances Act, 1908 (VI of 1908), entrusted to the Government of Bombay by the Government of of India, Home Department, Notification No. 51/12/36- Political, dated the 29th March 1938, the Government of Bombay is pleased to consent to the trial of the persons specified in the margin for offences punishable under section 3, 4, 5 and 6 of the said Act.

By order of the Governor of Bombay,

EKN .13/7/

Additional Secretary to Government.

Office of the R.L.A.

A revised draft consent order is sent herewith.

Sd/P.N.M.
1/2

Remembrancer of Legal Affairs.

U.R. to H.D.(Spl.),No.788 dated the 2nd Feb.1943.

EKN.13/7/

Below references No.Pol. 138 dated the 13th November 1942 and 2nd January 1943 from the District Magistrate Kaira.

ORDER.
Home Department.

Bombay Castle, Feb. 1943.

No. S.D. VI/- In exercise of the function of the Central Government under section 7 of the Explosive Substances Act, 1908 (VI of 1908), entrusted to the Government of Bombay by the Government of India, Home Department, Notification No.51/12/36-Political dated the 29th March 1938, the Government of Bombay is hereby pleased to consent to the ~~xxxxxx~~ trial of the persons specified in the margin for offences punishable under section 3, 4,5, and 6 of the said Act.

1. Ramanlal Raojibhai,
2. Shankerlal Chhaganlal,
3. Matifal,
4. Chandubhai Khodabhai alias Trikambhai,
5. Manubhai Mahibhai
6. Kantilal Lakhabhai,
7. Ochhavlal Mohanlal,
8. Sunderlal Chimanlal Dalivala, and
9. Dadubhai Dyabhai Patel.

By order of the Governor of Bombay,
Home Department

EKN.13/7/

Office of the R.L.A.

A revised draft consent order is sent herewith.

Sd/ P.N.M.1/2

Remembrancer of Legal Affairs.

U.R. to H.D.(Spl),No.787 dated the 2nd Feb.1943.

EKN. 13/7/

Below reference No. P.O.L./38 dated the 2nd January 1943 from the District Magistrate Kaira.

O R D E R

Home Department.

Bombay Castle, February 1943.

No,S.D.VI/.- In exercise of the function of the Central Government under section 7 of the Explosive Substances Act, 1908 (VI of 1908) entrusted to the Government of Bombay by the Government of India, Home Department, Notification No.51/12/36- Political dated the 29th March 1938, the Government of Bombay is pleased to consent to thetrial of the persons specified in the margin for offences punishable under sections 4,5, and 6 of the said Act.

By order of the Governor of Bombay,

Additional Secretary to the Government of Bombay, Home Department.

1. Ramanlal Chimanlal Gandhi,
2. Gordhandas Vanamalidas Thakker
3. Motilal Vithaldas Shah,
4. Gopaldas Purshottamdas Desai,
5. Harising Khimsing,
6. Ramanlal Parshottam Gandhi,
7. Shakerlal Khushaldas Prohit,
8. Manubhai Harilal Mehta,
9. Ambalal Jivabhai Valand,
10. Natverlal Parshottam Parikh,
11. Parshottam Shankerlal Parikh, and
12. Gunvant Gopal Shah.

EKN.13/7/

Office of the R.L.A.

The consent order already made seems to be correct. The Lahore decision in 55 I.C. 102 is distinguishable. The order produced in that case does not appear to have specified the offences for which the accused was to becharge, and this possibly left the Court in doubt whether Government had really applied its mind to the case. The judgement no doubt contains on observation to the effect that the proper course for the Government in to state br-efly the facts which constitute the offence and to give its consent to the trial of the accused person upon those facts as constitution, in the opinion of the consenting authority, an offence under one or other of the section of the act. The observation, however, is obiter and has no binding authority. The Act prescribes no form in which Government must express its consent nor are there any words in section 7 of the Act which expressly or by implication require such a statement of facts. In giving consent Government performs an executive, and not a judicial function if so it cannot properly be required to determine and state the facts constituting the offence in respect of which sanction is accorded. Section 7 is designed apparently to prevent the Act being made an instrument ofharasment, which it might be if irresponsible persons could put any one to the hardship of standing a trial upon an offence under the Act. It only contemplates that a responsible authority, i.e. the Government concerned should be satisfied that there are prima facie grounds to justify an accused to be put up for trial. That the Government of Bombay in this case was so satisfied is clear from the

face,,,.....

fact that it expressly referred to the letters of the D.M. and D.I.G. which it had taken into consideration and specified the offences for which the prosecution was sanctioned. Assuming that the dictum laid down by the Lahore Judges is correct, the commission to state the facts would merely be regarded as an irregularity and will not invalidate the sanction order.

Sd/P.M.M.

Remembrancer of Legal Affairs.

U.R. to H.D.No.109 P dated the 2nd October 1943.

EKM. 14/7/

Office of the R.L.A.

A revised draft order is sent herewith.

Sd/P.N.M.

Remembrancer of Legal Affairs.

U.R. to H.D.(Spl) No.8192 dated the 5th November 1943.

EKN.14/7/

O R D E R.

No.S.D.VI/. Whereas it appears to the Government of Bombay that -

(1) Nivrutti Gangaram Guldagad alias Mali unlawfully and maliciously-

(a) conspired in December 1942 to cuase by an explosive substance, an explosion of a nature likely to endanger life or cause serious injury to property at Rahuri and with intent to cause such explosion placed an explosive substance on or about the 8th day of January 1943 near the door of a room in the residential house of Mr.Punde, P.S.I.,Rahuri, and or about the 9th day of January 1943 near the Vijaya Talkies at Rahuri, and

(b) made or had in his possession or under his control in his dwelling house at Rahuri, on or about the 4th February 1943, explosive subsances with intent by means thereof to endanger life or cause serious injury to property in British India or to enable any other person by means thereof to endanger life or cause serious injury to property in British India;

(2) Vishna Gopal Gandhe unlawfully and malicously

(a) conspired in December 1942 to cause by an explosive substance an explosion at Belapur Road of a nature likely to endanger life or cause serious injury to property and with intent to cause such explosion placed on or about 23rd January 1943 an explosive substansive inside the Post Office building at Belapur Road, and

(b) made or had in his possession or under his control on or about the 23rd January 1943 an explosive substance with intent by means thereof to endanger life or cause serious injury to property in British India or to enable any this perenn means thereof....

of to endanger life or cause serious injury to property in British India;

(3) Vishnu Gopal Gandhe and Nivrutti Gangaram Guldaged alias Mali made or knowingly had in their possession or under their control on or about the 23rd January 1943 and 4th February 1943, respectively, an explosive substance under such circumstances as to give rise to a reasonable suspicion that they did not make or have them in their possession or under their control for a lawful object;

Now, therefore, in exercise of the function of the Central Government under section 7 of the Explosive Substances Act, 1908 (VI of 1908) entrusted to the Government of Bombay by the Government of India, Home Department Notification No. 51/12/36 Political, dated the 29th March 1938, the Government of Bombay is hereby pleased to consent to the trial of the said (1) Nivrutti Gangaram Guldagad alias Mali and (2) Vishnu Gopal Gandhe for offences punishable under sections 4 and 5 of the said Act.

By order of the Governor of Bombay,

Secretary to Government.

EKN .14/B/

O_R_D_E_R

Under section 270 of the Government of India Act 1935, I, Victor Alexander John, Marquess of Linlithgow, actingin my discretion, consent to the institution of proceedings against Abu Taher Sk.Fakir, clerk, General Post Office, Bombay, for having committed offences punishable under sections 409,467,471 and 381 of the Indian Penal Code.

Sd/ Linlithgow

Viceroy and Governor General.

The 9th day of March 1943.

EKN.14/7/

Office of the R.L.A.

Seen and returned.

2. Attention is invited to the sanction order passed by the Viceroy and Governor-General (Copy appended) which is in keeping with the original sanction order passed by the Government of Bombay.

Sd/ P.N.M.

Remembrancer of Legal Affairs.

U.O. to H.D.(Spl) No.372-Confl,dated the 3rd December 1943.

EKN.14/7/